

Westchester  
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Andrew J. Spano  
County Executive

Office of the County Attorney

Charlene M. Indelicato  
County Attorney

August 27, 2008

MEMO ENDORSED

Via Fax only (212) 805-6326  
Judge Colleen McMahon  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 640  
New York, New York 10007

9/1/08  
*granted* ✓

Re: Jasper Walter Jones v. Westchester County Dept. Corr. Medical Dept, et al.  
07 Civ. 3019

**Request for extension of time to serve affirmation in opposition to plaintiff's  
motion for summary judgment to September 19, 2008**

Dear Judge McMahon:

I am the Assistant County Attorney assigned to handle the above referenced matter. Due to the time expended in preparing for an upcoming arbitration and trial, this office is respectfully requesting a 3 week extension to September 19, 2008 to submit opposition papers to the plaintiff's presumptive motion for summary judgment returnable on September 4, 2008. The plaintiff is pro se and presently incarcerated at the Gouverneur Correctional Facility in Gouverneur, New York. This office has not contacted the plaintiff prior to making this request to the Court because he is incarcerated and this office has no way to obtain his consent at the moment of this request. This is the first request for an extension.

Just by way of background, the plaintiff alleges that upon his arrival at the Westchester County Department of Corrections on February 26, 2006, he informed the jail officials, via a medical questionnaire, that he suffered from osteoarthritis in both hips. Over the course of his incarceration at the jail, he claimed that his condition degenerated to the degree that he required bilateral hip replacement to alleviate his pain. He was scheduled to undergo hip replacement when the medical staff determined that an alternative form of treatment-to wit, a back brace and physical therapy should be attempted. The medical doctor specifically determined that the hip replacement surgery was not necessary at this time because plaintiff's condition was not an emergency. Therefore, the surgery was deemed elective. Plaintiff claims that the defendants' refusal to perform the hip replacement surgery constitutes inadequate medical treatment and deliberate indifference to his medical needs in violation of the Eighth Amendment to the US Constitution.

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The plaintiff previously moved for a default judgment against the defendants which this Court denied. Thereafter, the defendants moved to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure which this Court granted in part and denied in part on May 6, 2008. In the Court's May 6<sup>th</sup> decision, the Court stated that issues of fact exist in the case and that the case requires discovery in order to ripen the remaining issues in the case for possible adjudication.

On August 1, 2008, the plaintiff filed the instant motion seeking "an Order of the Court directing the defendants to compensate the plaintiff the requested amount of \$50,000.00 due for the pain, suffering, anguish, of the petitioner due to the Deliberate Indifference of the defendants who denied the plaintiff Adequate (sic) Reasonable Medical Care and Treatment of a serious medical condition in violation of his Civil Rights protected under the 8<sup>th</sup> and 14<sup>th</sup> Amendments of the Constitution of the United States and the State of New York." No exhibits or any documentation was annexed to plaintiff's motion.

In closing, this office respectfully requests a 3 week extension in order to respond to the motion. I can be reached at (914) 995-2243. I thank you in advance for your time and consideration of this matter.

Very truly yours,



Reginald J. Johnson  
Assistant County Attorney

/rjj

Cc: Mr. Jasper Walter Jones